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14 **UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF WASHINGTON**

16 NICHOLAS ROLOVICH,

17 NO.

18 Plaintiff,

19 NOTICE OF REMOVAL

20 v.

21 WASHINGTON STATE
22 UNIVERSITY, an agency of the State
of Washington; PATRICK CHUN,
Director of Athletics for Washington
State University, in his individual
capacity; and JAY INSLEE, Governor,
in his official capacity,

23 Defendants.

24 TO: NICHOLAS ROLOVICH, Plaintiff;

25 AND TO: BRIAN FAHLING and ERIC KNIFFIN, Counsel for Plaintiff;

26 AND TO: CLERK OF THE ABOVE-ENTITLED COURT.

1 PLEASE TAKE NOTICE that without waiving any procedural or
2 substantive defenses, Defendants Washington State University (WSU) and
3 Patrick Chun hereby remove Plaintiff Nicholas Rolovich's lawsuit filed on
4 November 14, 2022, in the State of Washington Whitman County Superior Court,
5 under Cause No. 22-2-00244-38, to the United States District Court for the
6 Eastern District of Washington (Spokane Division). Defendant Jay Inslee
7 consents to removal. Defendants WSU and Chun provide the following short,
8 plain statement of the grounds for removal:

9 1. Plaintiff filed this action in Whitman County Superior Court on
10 November 14, 2022.¹ Because this Court is the United States District Court for
11 the district and division embracing the place where the state court action is
12 pending, it is the appropriate court for removal pursuant to 28 U.S.C. § 1441(a).

13 2. Plaintiff served Defendants with the First Amended Complaint and
14 Summons on December 9, 2022. This Notice is therefore timely and
15 appropriate because it is "filed within 30 days after the receipt by the defendant,
16 through service or otherwise, . . . or within 30 days after the service of summons
17 upon the defendant . . ." 28 U.S.C. § 1446(b)(1).

18 3. This is a civil action brought in state court of which this Court has
19 original jurisdiction under 28 U.S.C. § 1331 because it arises under the
20 Constitution and laws of the United States, including the Free Exercise Clause

22 ¹Plaintiff did not serve Defendants the original Complaint.

1 (U.S. Const. amend. I); the Due Process Clause (U.S. Const. amend. XIV, § 1);
 2 42 U.S.C. § 1983; and Title VII of the Civil Rights Act of 1964 (42 U.S.C.
 3 § 2000e-2(a)). Removal is therefore appropriate under 28 U.S.C. § 1441(a).

4 4. Removal is also appropriate under 28 U.S.C. § 1332(a) because
 5 complete diversity of citizenship exists between Plaintiff and all Defendants and
 6 the amount in controversy pertaining to Plaintiff's claims exceeds \$75,000.00.
 7 Plaintiff is a citizen of California, where he currently resides. *See* 1st Am. Compl.
 8 ¶ 11. All Defendants are Washington citizens: Defendant WSU is a public
 9 university of the State of Washington; Defendant Chun resides in Pullman,
 10 Washington; and Defendant Inslee resides in Olympia, Washington, and is sued
 11 in his official capacity as Governor of the State of Washington. Thus, complete
 12 diversity of citizenship exists.

13 5. As to the amount in controversy, Plaintiff's employment contract
 14 with Defendant WSU provided for an annual base salary of \$2 million. *Id.* ¶ 15.
 15 Plaintiff alleges that "WSU was required to pay liquidated damages in an amount
 16 equal to sixty percent of his remaining base salary" and that "[w]hen he was
 17 terminated, [Plaintiff] had approximately three and one-half years remaining on
 18 his contract." *Id.* ¶ 99; *see also id.* ¶ 15. Plaintiff seeks "liquidated damages, as
 19 provided for in the employment contract," "monetary and/or economic damages"
 20 for alleged "loss of past and future income, wages, compensation, job security
 21 and other benefits of employment," and "punitive damages" under

1 42 U.S.C. § 1983, Title VII, and Wash. Rev. Code § 49.60 *et seq.* 1st Am. Compl.
2 at 31. The amount in controversy thus far exceeds the statutory minimum of
3 \$75,000.00.

4 6. Defendant Inslee is separately represented, and “consent[s] to the
5 removal of the action.” 28 U.S.C. § 1446(b)(2)(A).

6 7. This Court has personal jurisdiction over Plaintiff and all
7 Defendants.

8 8. In compliance with 28 U.S.C. § 1446(a), Defendants have attached
9 as an exhibit a true and complete copy of all process, pleadings, and orders filed
10 or served upon Defendants in Whitman County Superior Court Cause
11 No. 22-2-00244-38. *See Exhibit A.*

12 9. In compliance with 28 U.S.C. § 1446(d), a copy of this notice
13 (without Exhibit A) will be filed with the Whitman County Superior Court and
14 served on Plaintiff’s counsel in conjunction with this filing.

15 DATED this 14th day of December 2022.

16 ROBERT W. FERGUSON
17 Attorney General

18 /s/Spencer W. Coates
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8 *Attorneys for Defendants Washington*
9 *State University and Patrick Chun*

10 **Notice of Consent:**

11 Defendant Governor Jay Inslee, in his official capacity, hereby consents to
12 removal.

13 ROBERT W. FERGUSON
14 Attorney General

15 */s/Alicia O. Young*
16 ALICIA O. YOUNG, WSBA #35553
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Attorneys for Defendant Governor
Jay Inslee

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice. I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

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Counsel for Plaintiff

I declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct.

DATED this 14th day of December 2022, at Seattle, Washington.

/s/Spencer W. Coates
SPENCER W. COATES, WSBA #49683
Assistant Attorney General
*Attorney for Defendants Washington
State University and Patrick Chun*

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